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Received - 2021-07-30 01:41:41 PM
Control Number - 51840
ItemNumber - 41

PROJECT NO. 51840

RULEMAKING ESTABLISHING ELECTRIC WEATHERIZATION STANDARDS	**§ § §**	**PUBLIC UTILITY COMMISSION OF TEXAS**

COMMENTS OF TEXAS ELECTRIC COOPERATIVES, INC.

Texas Electric Cooperatives, Inc. (TEC) respectfully submits these comments in response to the Public Utility Commission of Texas (Commission) Staff Discussion Draft and Questions for Comment filed in Project No. 51840 on July 19, 2021. Staff's Discussion Draft proposes new 16 Texas Administrative Code (TAC) § 25.55 to implement weather emergency preparedness measures for generation entities and transmission providers in the Electric Reliability Council of Texas (ERCOT) region, as required by Senate Bill 3 (SB 3).

TEC is the statewide association of electric cooperatives operating in Texas, representing its members except as their interests may be separately represented.[1] TEC provides these initial comments on the preliminary Discussion Draft and will offer further input on subsequent drafts as this project moves forward.

I. Bulleted Summary of Comments

As requested by Staff, TEC's comments are summarized below in a bulleted executive summary:

- Current market-based mechanisms are likely insufficient to support cost recovery for compliance costs – adhere to SB 3 by developing new market mechanisms to fund weatherization costs.
- Avoid any provisions in the new rule that shift weatherization costs from one segment of the market to another.

[1] TEC's 75 members include distribution cooperatives that provide retail electric utility service to approximately 4,000,000 consumers in statutorily authorized service areas that encompass more than half of the total area of the state. TEC's G&T members generally acquire generation resources and power supply for their member distribution cooperatives and deliver electricity to them at wholesale.

- Clarify the weather study criteria described in Subsection (c) of the proposed rule, such that the rule provides greater certainty to affected entities regarding the implementation of weather preparedness measures.
- Streamline the reporting requirements outlined in Subsections (f) and (k) so that reports are submitted on the three-year inspection cycle.
- Create consistency in terms of compliance and weatherization requirements applicable to the generation entities and transmission service providers.
- Consider modifying the definition of a Resource in Subsection (b) and the deadlines in Subsection (e) to avoid potential compliance challenges, particularly for large units in the 2022 timeframe.

II. Detailed Response to Discussion Draft and Staff Questions

TEC's detailed response addresses the questions posed by staff in the Discussion Draft and elaborates on the points made in the bulleted executive summary above.

Question: Do existing market-based mechanisms provide sufficient opportunity for cost recovery to meet the weather reliability standards proposed in the discussion draft? If not, what cost recovery mechanisms should be included in the proposed rule?

a. Current market-based mechanisms are likely insufficient to support cost recovery for compliance costs – adhere to SB 3 by developing new market mechanisms to fund weatherization costs.

Under the Discussion Draft, generation entities will be required to implement measures that "improve the function of a facility" and "reasonably ensure" resources can provide service under a range of to-be-determined scenarios developed by ERCOT in its weather study. The future total cost of actions entities must take will not be known until ERCOT completes the weather study, the Commission approves it, and entities subsequently complete the third-party compliance study. Additionally, future costs are difficult to quantify because the weatherization measures delineated in Subsection (b)(4) in the Discussion Draft comprise a range of activities with disparate financial impacts. Because compliance costs are speculative, it is unknown whether existing market-based mechanisms provide sufficient opportunity for cost recovery associated with regulatory compliance.

Potential above-market compliance costs will likely manifest if the required weather preparation measures are in excess of those a unit owner would otherwise implement based on market expectations. The current market design is estimated to result in a 0.5 Loss of Load Expectation (LOLE), which translates to a 12.25% reserve margin.[2] If the objective of the rulemaking is to obtain a level of reliability greater than that produced by existing market forces (for example, a one-event-in-ten-years standard), then existing market incentives are not sufficient for cost recovery. While generation entities may take action beyond that supported by the current economic incentives because of their risk preferences, generally reliability outcomes are dictated by revenue expectations in the market. Although, as stated above, the cost impact to meet the new reliability standards cannot be estimated because the weather criteria are unknown, it is likely that incentives to support incremental actions contemplated by the rule are not present in the current market design.

Regarding cost recovery mechanisms, TEC recommends Staff follow the direction of SB 3 and to the extent possible incorporate market mechanisms sufficient to support cost recovery for dispatchable resources. The market reforms contemplated by Section 18 of SB 3 could provide a revenue stream to fund the additional expenditures implied by the Discussion Draft.

SB 3 makes clear that the Legislature intended the Commission to procure services to support generator availability during extreme weather. Newly enacted PURA[3] § 39.159(b)(2) requires ERCOT to procure from dispatchable resources Ancillary Services (AS) necessary to ensure reliability during extreme heat and cold conditions. Resource capabilities may include on-site storage, dual fuel capability, fuel supply arrangements, and facilities and procedures to ensure operation during drought conditions. These capabilities are to an extent reflected in the definition of weather preparation measures in Subsection (b)(4) of the Discussion Draft.

Because the measures in the Discussion Draft appear to align with the resource capabilities prescribed in Section 18 of SB 3, TEC interprets the Enhanced Weather Reliability Service described in Subsection (d)(2) of the Discussion Draft as a new AS intended, in part, to implement

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[2] Astrapé Consulting, *Estimation of the Market Equilibrium and Economically Optimal Reserve Margins for the ERCOT Region for 2024*. (Jan. 15, 2021). Available at: http://www.ercot.com/content/wcm/lists/219844/2020_ERCOT_Reserve_Margin_Study_Report_FINAL_1-15-2021.pdf

[3] Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-66.016 (PURA).

the above provisions of SB 3.[4] TEC supports the direction of this aspect of the Discussion Draft and recommends Staff clarify that this new AS is intended to procure these resource capabilities from dispatchable resources. Although existing market mechanisms are likely not sufficient for cost recovery, these new AS could provide a funding source for compliance with new weatherization mandates.

b. Avoid any provisions in the new rule that shift weatherization costs from one segment of the market to another.

Although TEC is not suggesting the Commission institute a regulated funding mechanism for compliance costs, should regulated cost recovery be permitted for generators, TEC urges that all market participants with eligible costs be treated similarly. There is no basis for arguments that electric cooperatives should bear the weatherization costs of other generation providers without the ability to likewise recover compliance costs.

Generally, electric cooperative generation providers (generation and transmission "G&T" cooperatives) supply power to their distribution members through long-term contracts that are similar in nature to the long-term contracts that other generators enter into with customers. G&Ts derive revenue from the market and make investment decisions based on market fundamentals like any other ERCOT generator. TEC strongly advises Staff to avoid discriminatory treatment in the establishment of any cost recovery mechanism for weatherization costs.

c. Clarify the weather study criteria described in Subsection (c) of the proposed rule, such that the rule provides greater certainty to affected entities regarding the implementation of weather preparedness measures.

The key driver of weatherization reforms as outlined in the Discussion Draft is the weather study conducted by ERCOT and the Office of the Texas State Climatologist, described in Subsection (c). TEC recommends that Staff modify the Discussion Draft to provide more specificity around the weather scenarios to be incorporated into the weather study. As written, the impact of the rule is ambiguous because of uncertainties regarding the study inputs. Because the

[4] In addition to AS for extreme weather, SB 3 also requires ERCOT to establish requirements to meet the reliability needs of the power regions, to procure AS to ensure reliability during times of low non-dispatchable power, and to prevent prolonged rotating outages due to net load variability. These reliability services do not appear in Staff's Discussion Draft and TEC assumes they will be addressed in a separate project.

study is not fully defined, there may be an inclination later to design it in such a way to "solve for X" to achieve a predetermined set of outcomes.

At a minimum, TEC recommends the weather study criteria specify that the probabilistic analysis incorporate all hours within at least a 20-year historical timeframe. This minimum guideline would help market participants begin to quantify the impact of the new requirements with some certainty. TEC also recommends Staff better define the weather zones in the Rule and provide any other specificity that would enable providers to begin to prepare their facilities as soon as possible, rather than waiting for the results of the ERCOT study in January of next year.

d. Streamline the reporting requirements outlined in Subsections (f) and (k).

Subsection (f) of the Discussion Draft describes the compliance requirements of the new rule. Subparagraph (f)(1) outlines the compliance study that must be conducted by a third-party professional engineer to confirm generator compliance with the weather reliability standards. This study must be submitted prior to the implementation deadline, and a new study must be done should a significant change occur. Subparagraph (f)(2) requires an annual report on compliance activities, including an affidavit sworn to by the entity's chief executive officer. Subsection (k) includes a similar annual report applicable to transmission providers. Subsection (l) describes the ERCOT inspection program and the report ERCOT must provide based on the results of the inspection.

TEC recommends that the annual generation and transmission reporting requirement be modified to align with the timeline applicable to ERCOT inspections. Rather than an annual report, generation entities and transmission providers could submit a report every three years prior to the ERCOT inspection. ERCOT could then base its inspection in part off the information provided in the report. The Commission and ERCOT could always request additional information from an affected entity if additional off-cycle inspections are undertaken. Instead of an annual report, TEC believes the report aligned with the inspection process on a three-year basis would provide a high level of transparency without the administrative burden of annual filings. Finally, generators and transmission providers should have the ability to designate a compliance officer or engineer and have that person sign the affidavit in lieu of the CEO.

e. Create consistency in terms of compliance and weatherization requirements applicable to the generation entities and transmission service providers.

Winter Storm Uri revealed the deeply interconnected nature of our electric power system. To support a more resilient and reliable system, TEC recommends that the Staff create consistency between the requirements applicable to generation, transmission, and, to the extent possible, natural gas facilities. For example, both generation and transmission may be required to meet the basic weather reliability standard at the 95th percentile of extreme weather – it is unclear why in the Discussion Draft the transmission system is subject to a basic standard at the 98th percentile, a different standard than generation.

Further, TEC understands the Railroad Commission (RRC) will implement weatherization rules that apply to natural gas facilities – ideally the RRC rules would apply the same weather criteria to those facilities as are applied to electric generation facilities and endeavor to create a system that is held to the same standard throughout, so that there are no weak links in the electric/natural gas supply chain.

The Discussion Draft additionally contemplates in Subsections (i) and (j) an exemption for certain transmission facilities outside of a substation or switching station that were designed "in conformance with good utility practice but are insufficient to meet the standard." First, Staff should clarify which facilities are eligible for the exemption and whether "good utility practice" references compliance with National Electrical Safety Code standards. Second, TEC believes a similar exemption could be envisioned for existing generation resources that are designed in conformance with good utility practice to meet a design specification that may not correspond with the extreme weather parameters dictated by the weather study, or where weather preparation measures may be cost prohibitive or infeasible. Similar to transmission, a narrow exemption for generation facilities subject to ERCOT and Commission approval could provide an avenue for compliance for units that cannot reasonably qualify or meet the standard.

f. Consider modifying the definition of a Resource in Subsection (b) and the deadlines in Subsection (e) to avoid potential compliance challenges, particularly for large units in the 2022 timeframe.

TEC appreciates the compliance deadlines included in the Discussion Draft. Although SB 3 did not specify a timeline for implementing weatherization, the certainty provided by the deadlines

will ensure that reforms are implemented to improve the resiliency of the system in the near term. However, the deadlines proposed in Subsection (e) should be adjusted to give resources a reasonable opportunity to implement needed measures.

The proposed timeline is unrealistic because ERCOT must file its first weather study no later than January 1, 2022. Thereafter, the Commission will initiate an approval process that may take several months. For large units, the implementation deadline is potentially just a few months after the standards are confirmed, by November 1, 2022. Resources will struggle to acquire the services and material needed to make significant changes to their operations, staffing plans, or structural preparations, and many will be simultaneously competing for these services in an uncertain supply chain environment. Further, units may need to be taken offline for retrofits, which could result in a significant portion of unavailable capacity in the summer months of 2022.

TEC believes units will need a minimum of 18 months after the study is approved and the standards are known to implement measures. Each deadline specified in Subsection (e) should therefore be shifted by one year, with large resources required to meet the standard by November 30, 2023, resources between 250 and 650 MW by November 30, 2024, and smaller units by November 30, 2025.

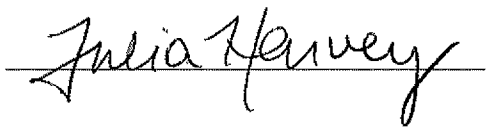
In addition to extending the deadlines to provide a reasonable timeframe for compliance, Staff may also adjust the definition of Resource in Subparagraph (b)(3) so that Generation Resources with multiple dispatchable units behind the same meter may be separately counted for purposes of the tiered compliance schedule in Subsection (e). A generation entity may control several gas turbines in the same location and those units may be registered as one Generation Resource. These units may look like a large unit in aggregate, but should be considered separate units for compliance purposes.

III. Conclusion

TEC thanks Commission Staff for the opportunity to comment on the Discussion Draft. TEC looks forward to continued participation in this important rulemaking and is available to provide any additional information that may be helpful to the Commission.

Dated: July 30, 2021

Respectfully submitted,



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